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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/465,607	12/17/1999	TIMOTHY M. KEISER	10269/13	9080
29858	7590	06/29/2004	EXAMINER	
BROWN, RAYSMAN, MILLSTEIN, FELDER & STEINER LLP 900 THIRD AVENUE NEW YORK, NY 10022			GRAHAM, CLEMENT B	
			ART UNIT	PAPER NUMBER
			3628	

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/465,607

Applicant(s)

KEISER ET AL.

Examiner

Clement B Graham

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 24.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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#### DETAILED ACTION

1. Claims 1-22 are remained

2. In view of the Appeal Brief filed on 02/17/04 PROSECUTION IS HEREBY REOPENED. New grounds of rejections are set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) request reinstatement of the appeal.

If reinstatement of the appeal is requested, such request must be accompanied by a supplemental appeal brief, but no new amendments, affidavits (37 CFR 1.130, 1.131 or 1.132) or other evidence are permitted. See 37 CFR 1.193(b)(2).

#### Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunt et al (Hereinafter Hunt Patent No. 5,724,524) in view of Daughtery, III, Patent No. 6,262,321.

Claims 1-22 discloses receiving a first order to buy a derivative financial instrument, receiving a second order to selection the derivative financial instrument.(Note abstract and see column 5 lines 15-40 and column 14 lines 10-25 and see column 3 lines 55-65 and column 4 line 5) and executing a trade at a set market price.(see column 3 lines 10-15 and column 5 lines 17-40).

Hunt fail to explicitly teach method for trading a plurality of derivative financial instruments over the Internet.

However Daughtery, III, discloses the user is prompted to select which option pricing algorithm he or she wishes to use to transact the expirationless option. Such algorithms include, but are not limited to, the Black-Scholes, the Binomial Pricing, the Finite Difference and the Analytic Approximation algorithms. These algorithms are widely used

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in connection with determining expiring option premiums and are available in both proprietary and shareware software from Montgomery Investment Technology. The option prices provided in this detailed description were determined using this free Internet service, and demonstrate that any option pricing algorithm may be used to determine expirationless option prices.(see column 11 lines 25-30) and The present invention includes an apparatus and a process for calculating and transacting options. In addition, the present apparatus and process for calculating option prices may be used in calculating and transacting any asset which can be constructed as an individual or series of options, regardless of their expiration date. The present invention may be applied for calculating expirationless options and option prices in the securities market, as well as a variety of other asset-based markets.(see column 6 lines 30-35).

Further Setting a market price is usually based on many criteria such as revenues and intangible assets such as copyrights and patents. The market price per share may be compared to its book value per share in determining how much above its real value the company is selling.

The examiner notes that the claimed invention is directed to known methods of trading derivative financial instruments over the Internet or a network. The difference between the claimed invention and the system of Hunt and Daughtery, III, is that the claimed derivative instrument represents a movie corresponding to a stock and a movie talent corresponding to a bond for trading over the network.

The examiner notes that known derivative financial instruments represent a wide variety of assets to include both physical and virtual assets.

The Examiner also notes that asset represented by the derivative financial instrument does not affect the functioning of systems having similar data processing logic.("i. e, data is data" See in re Gulack 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 f.3d 1579, 32 USPQ2d 1031 (Fed. Cir.1994)).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to represent a movie or movie talent as a derivative financial instrument, and to use the corresponding steps in Hunt et al and Daughtery, III, to trade derivative financial instruments.

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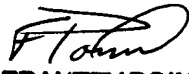
One would have been motivated to use Hunt et al and Daughtery, III, method of trading derivative which represent virtual assets such as a movie or movie talent in order to present a familiar and known method to traders.

Conclusion

5. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hyung S. Sough can be reached on 703-308-0505. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-0040 for regular communications and 703-305-0040 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CG  
June 15, 2004

  
**FRANTZY POINVIL**  
**PRIMARY EXAMINER**  
*All 3628*